

TESTIMONY OF

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TESTIMONY BEFORE THE
SUBCOMMITTEE ON WORKFORCE PROTECTIONS
COMMITTEE ON EDUCATION AND THE WORKFORCE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON
COMPULSORY UNION DUES AND CORPORATE CAMPAIGNS

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Mr. Chairman, and Members of the Subcommittee:

My name is Daniel V. Yager and I serve as Senior Vice President and General Counsel for LPA, the Labor Policy Association. I am pleased to appear before you today to present the views of LPA regarding compulsory union dues and corporate campaigns. This hearing provides a long overdue examination by Congress of one of the most serious weaknesses in our labor laws today: the erosion of employee choice on the issue of union representation because of so-called card check recognition agreements forced on employers through ruthless “corporate campaigns.” Because we believe this practice should be discontinued, we strongly support Chairman Norwood’s legislation—H.R. 4636, the “Workers’ Bill of Rights,” which would make card check recognition an unfair labor practice.

As you may know, LPA is a public policy advocacy organization representing senior human resource executives of over 200 leading employers doing business in the United States. LPA provides in-depth information, analysis, and opinion regarding current situations and emerging trends in labor and employment policy among its member companies, policy makers, and the general public. Collectively, LPA members employ over 19 million people worldwide and over 12 percent of the U.S. private sector workforce. LPA’s members are employers—with both represented and non-represented workforces—covered by the National Labor Relations Act. LPA has played an active role over the years in congressional consideration of statutory changes in the labor laws. We also seek to help shape the law through *amicus curiae* briefs filed with the National Labor Relations Board and the courts. In addition, we report extensively on labor law developments through our newsletter *NLRB Watch* and other publications.

One of the cornerstones of American labor policy has been that unionization is a matter of employee choice manifested through a secret ballot election where every employee has a chance to register his or her position in a confidential manner. Yet, because in recent years fewer employees have chosen to elect unions in traditional secret ballot elections, organized labor has adopted a different approach called card check organizing.¹ Using this approach, employers are pressured—typically through a strategy called a “corporate campaign”—into recognizing unions on the basis of union authorization cards signed in the presence of a union organizer. These agreements are often accompanied by the employer’s agreement to remain neutral while the union seeks the employees’ signatures. Where a union is recognized on the basis of a card check, the result may be viewed as a deal between the employer and the union that the latter will represent employees who have never had an opportunity to declare their position in a confidential manner.

How Card Check Organizing Works

Historically, under the National Labor Relations Act, the decision as to whether a union will serve as a collective bargaining representative of a group of employees is made through a secret ballot election. The election typically takes place after the union has made a required showing of sufficient interest among the employees—at least 30 percent of those it is seeking to represent—in having an election. This interest is usually demonstrated by signed union authorization cards that indicate a desire by the employee to be represented by the union or to have an election to determine that issue. When the

election is held—usually within 60 days—it is supervised by the National Labor Relations Board, which ensures that employees cast their ballot in a confidential manner with no coercion by either management or the union.

However, the law has allowed an exception in situations where an election may be superfluous because it is clear to the employer that the union enjoys the support of a majority of the employees. Thus, under current law, when presented with union authorization cards signed by more than 50 percent of the employees, the employer may voluntarily recognize the union. This has been tolerated under the law despite the absence of numerous safeguards in the so-called card check process compared to those that exist in an NLRB representation election [see Chart 1].

How Unions Get Employees to Sign Cards

Unlike a secret ballot election, union authorization cards are signed in the presence of an interested party—a pro-union co-worker or an outside union organizer—with no governmental supervision. There is no question that this absence of supervision has resulted in deceptions, coercion, and other abuses over the years. Even in the best of circumstances, an employee is likely to be subject to peer pressure from other pro-union employees to sign the card. At worst, the employee may be subjected to deception and even threats of physical harm by organizers to get them to sign the cards. The card-signing process is loosely regulated and almost always escapes the attention of authorities. However, on occasion, a courageous employee has brought to the attention of the NLRB or the courts coercive activity, which has been documented in numerous decisions over the years [see Appendix].

For example, in *HCF, Inc. d/b/a Shawnee Manor*,² an employee testified that a co-employee soliciting signatures on union authorization cards threatened that, if she refused to sign, “the union would come and get her children and it would also slash her tires.” Incredibly, the Clinton Board refused to find the union responsible for the misconduct of the employee card solicitor. While acknowledging that workers assisting a union in card solicitations are typically acting as union agents, the Board concluded that “alleged threats of violence, even when made in the course of card solicitation, cannot be construed by any reasonable person as representing ‘purported union policies.’”

Yet, even where abuses such as those in *Shawnee Manor* do not occur, union authorization cards are an inadequate method for determining employee choice, as the U.S. Supreme Court has acknowledged:

The unreliability of the cards is not dependent upon the possible use of threats.... It is inherent, as we have noted, in the absence of secrecy and the natural inclination of most people to avoid stands which appear to be nonconformist and antagonistic to friends and fellow employees.³

Thus, the Court, in an opinion authored by Justice William O. Douglas, concluded that “in terms of getting on with the problems of inaugurating regimes of industrial peace, the policy of encouraging secret elections under the Act is favored.”⁴

Indeed, even organized labor has sung the virtues of secret ballot elections when the issue has been whether or not a union should continue to represent a group of employees

Chart 1: Procedural Safeguards: Election v. Card Check

The following side-by-side comparison explains some of the procedural safeguards found in the NLRB election process along with any counterpart card check protections:

Election: An NLRB-approved notice that explains the workers' rights must be posted by the employer at least three days prior to the election.

Card Check: *Workers are informed of their rights only to the extent articulated by the union organizer.*

Election: "Captive audience" speeches within 24 hours of the election are prohibited.

Card Check: *Employees are subject to unrebutted, pro-union speeches up until the time they sign an authorization card.*

Election: The election is conducted by an agent of the NLRB in conjunction with an equal number of observers selected by the union and employer.

Card Check: *Union authorization cards are solicited in the presence of union organizers.*

Election: The names of prospective voters are compared against a previously established eligibility list before they may cast their ballots.

Card Check: *Anyone may sign union authorization cards. Although forgery of authorization cards is prohibited, there is no safeguard that prevents forgeries before the fact.*

Election: The election ballot box is physically inspected and sealed by the NLRB agent immediately prior to voting.

Card Check: *The union maintains control over signed authorization cards.*

Election: The NLRB agent retains positive control over the ballots at all times.

Card Check: *The union retains control over authorization cards at all times.*

Election: The ballots are secret: no name or other identifying information appears on the ballot to indicate how an employee voted.

Card Check: *Both the employer and the union know which employees signed authorization cards.*

Election: Employees may not be assisted in casting their votes by agents of the union or employer.

Card check: *Union organizers may fill out and sign authorization cards on behalf of the workers with their express or implied permission, regardless of whether they have read the cards.*

Election: Electioneering near the polls is prohibited.

Card Check: *Solicitation of authorization cards may be accompanied by any pro-union propaganda that does not rise to a material misrepresentation regarding the consequences of signing the card.*

Election: Neither the employer nor the union may engage in coercive or threatening conduct prior to the election.

Card Check: *The union may not use threats or coercion in order to obtain signed cards nor may the employer use threats or coercion to prevent cards from being signed.*

Election: Neither the employer nor the union may grant or promise benefits prior to the election.

Card Check: *The union may not promise or grant benefits in order to obtain signed cards nor may the employer make promises or grant benefits to prevent cards from being signed.*

Election: The ballot box is opened, and the votes are counted, by the NLRB agent in the presence of the employer and union observers.

Card Check: *The employer may, but is not required to, request that a neutral party compare the names on authorization cards to the employer's payroll list.*

who apparently no longer support it. In a recent brief, the AFL-CIO, quoting the U.S. Supreme Court, asserted to the NLRB:

a representation election “is a solemn...occasion, conducted under safeguards to voluntary choice,” ...other means of decision-making are “not comparable to the privacy and independence of the voting booth,” and [the secret ballot] election system provides the surest means of avoiding decisions which are “the result of group pressures and not individual decision[s].”⁵

Organized labor has also been quick to embrace the secret ballot election abroad. For example, on February 28, 2001, AFL-CIO President John Sweeney wrote that “The secret ballot is a fundamental, democratic right...and the denial of a secret ballot in this election will mean the denial of the freedom of association.”⁶ Mr. Sweeney was writing about a union election in Mexico during which employees were required to vote by declaring their preference in front of union and employer representatives. Likewise, some members of Congress have heralded the secret ballot election in similar cases. For example, in a letter sent on August 29, 2001, Rep. George Miller (D-CA) and 15 other Members of Congress wrote: “[W]e feel the secret ballot election is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.”⁷

A recent incident in upstate New York highlights how union leaders hold out secret ballot elections as sacrosanct when it suits their purposes. Frontier Communications recently agreed to recognize the Rochester Telephone Workers Association, an independent union.⁸ This did not sit well with the Communications Workers of America, which filed a charge with the NLRB. CWA Local 1170 President Linda McGrath stated: “Ordinarily, the employees of a facility...would be allowed to hold an election to choose their own union, not to have one chosen for them by the company.... By choosing a union to represent them, the company violated the employees’ rights.”⁹

Ms. McGrath’s point is that it should be employees—and not the employer—who decide who should represent them. This point applies equally as to whether the employees should be represented by a union at all: the NLRA should empower employees to decide issues of representation, not employers and unions.

Use of Corporate Campaigns to Get Employers to Agree to Card Checks

Historically, card check recognition has been tolerated because of an assumption that, with a legal right to refuse card check recognition, an employer would only agree to forego an election if it was clear to the employer that such an election would be superfluous because of the strong employee support for the union. Regardless of whether this assumption was valid in previous years, in recent years, employers are more likely to be forced into recognition by a strategy called a “corporate campaign.”¹⁰

Although there is no simple definition for the term “corporate campaign,” the substance of the strategy is now well documented by academics, the courts, and the unions themselves.¹¹ The U.S. Court of Appeals for the District of Columbia Circuit summed up the term well when it stated that a corporate campaign:

encompasses a wide and indefinite range of legal and potentially illegal tactics used by unions to exert pressure on an employer. These tactics may include, but are not limited to, litigation, political appeals, requests that regulatory agencies investigate and pursue employer violations of state or federal law, and negative publicity campaigns aimed at reducing the employer's good will with employees, investors, or the general public.¹²

The AFL-CIO likewise explains the process as follows:

A coordinated corporate campaign applies pressure to many points of vulnerability to convince the company to deal fairly and equitably with the union. In such a campaign, the strategy includes workplace actions, but also extends beyond the workplace to other areas where pressure can be brought to bear on the company. It means seeking vulnerabilities in all of the company's political and economic relationships--with other unions, shareholders, customers, creditors and government agencies--to achieve union goals.¹³

A more graphic description of a corporate campaign has been provided by AFL-CIO Secretary-Treasurer Richard Trumka:

Corporate campaigns swarm the target employer from every angle, great and small, with an eye toward inflicting upon the employer the death of a thousand cuts rather than a single blow.¹⁴

Corporate campaigns can involve a seemingly unlimited number of individual pressure tactics. For example, one common tactic is the use of legal and regulatory harassment, as described in *A Troublemaker's Handbook*--a veritable how-to manual for corporate campaigns:

Private companies are subject to all sorts of laws and regulations, from the Securities and Exchange Commission to the Occupational Safety and Health Act, from the Civil Rights Act to the local fire codes. Every law or regulation is a potential net in which management can be snared and entangled. A complaint to a regulatory agency can cause the company managerial time, public embarrassment, potential fines, and the cost of compliance. One well-placed phone call can do a lot of damage.¹⁵

One UFCW official, in an article about how his union drove a grocery concern out of business, explained this strategy as "putting enough pressure on employers, costing them enough time, energy and money to either *eliminate them* or get them to surrender to the union."¹⁶

Examples of Card Check Organizing

There are numerous examples in recent years of unions using corporate campaigns to try to coerce employers into granting card check recognition. Three in particular—Family Foods, Levi Strauss & Co., and MGM Grand -- are noteworthy.

Family Foods. The Family Foods supermarket chain, based in Kalamazoo, was faced with a union organizing campaign by the UFCW in the late 1980's. In 1988, the UFCW lost a representation election conducted by the NLRB. The union filed charges with the

NLRB alleging that the employer had committed unfair labor practices during the organizing drive, and the NLRB agreed, ordering a new election.

However, the union opted not to pursue traditional organizing. Instead, the union decided to pursue a corporate campaign against Family Foods seeking to force them to recognize the union or drive them out of business.¹⁷ The union began by organizing a boycott and focused on various customer groups that would be sensitive to the union's pressure campaign.

The result was not unionization of the facility. As stated by Joe Crump, a former union official:

After a three-year struggle, the battle with Family Foods is over. Do we represent the employees? No. The company went out of business. The good news is that some of the stores were purchased by companies already under a [union] contract. A couple stores are empty, but I am sure that many of their former patrons are now shopping in unionized stores. Perhaps even more important is the message that had been sent to nonunion competitors: There is no "free lunch" in our jurisdiction.¹⁸

Consequently, the union decided to forgo an NLRB election and instead opted to wage a corporate campaign against the company. When the company refused to meet union demands for recognition, the union drove the company out of business, thus sending a strong signal to other employers that if they refuse the union's demand for recognition they could face the same type of corporate campaign.

Levi Strauss & Co. The 1994 acceptance by Levi Strauss & Co. of a card check agreement proposed by UNITE shows how employees can be pressured into signing authorization cards and denied their right to vote on representation. Under the agreement, the company agreed to recognize the union without an election at any plant where the union could demonstrate majority support, verified by an independent third party. After the agreement was signed, UNITE claimed to have organized three Levi plants or roughly 1,900 workers through card checks.

Many Levi Strauss employees bitterly resisted UNITE's card check strategy. At Levi's Roswell, New Mexico, plant, UNITE began organizing employees under the card check agreement in December 1996. The company provided the union access to the plant, as was required under the national card check agreement, and UNITE visited many employees at their homes in the evenings.¹⁹

According to employee accounts, the UNITE representatives played down the importance of the cards. They argued that the cards only demonstrated the employee's interest in having a union and did not commit them to unionization. Thus, the union was able to gather a large number of signatures quickly.

A group of Levi's employees discovered that the union and the company had a card check agreement and that by signing the authorization card, they had committed themselves to being represented by UNITE. On February 12, 1997, plant management received a petition signed by over half of the employees in the plant, indicating that they did not want a union. A smaller group of these employees sent letters to UNITE, requesting that the union return their signed cards, a request the union refused. In

response to the petition, the union and the company held a joint meeting at the plant regarding the authorization cards and card revocation. On March 7, 1997, UNITE and Levi's brought in a Roman Catholic priest to count the cards, pursuant to the national card check agreement. More than 50 percent of the employees had signed cards, even though many of these employees had later signed the petition as well.

Several employees who had signed the petition filed an unfair labor practice charge, claiming that the petition served as a revocation of the cards. The NLRB Regional Director in Phoenix rejected the charge, even though he acknowledged that Levi's "received a petition signed by a majority of employees...stating that the signers did not want to be represented by the Union."²⁰ The employees' appeal was ultimately rejected by NLRB General Counsel Fred Feinstein.²¹

MGM Grand. In the case of the MGM Grand Hotel, the hotel had opened for business in December 1993 and, for nearly three years, operated nonunion while the Hotel Employees & Restaurant Employees International Union (HERE) waged an extensive corporate campaign against the company demanding that it agree to a card check recognition. The tactics HERE used to pressure MGM Grand included the union's use of its political clout in Detroit to threaten to deny the MGM Grand a license necessary to open a major new casino in that city. The campaign also included negative reports issued to investment analysts, a sit-in of 500 people in the hotel's lobby, and numerous public demonstrations.²²

Ultimately, on November 15, 1996, the company voluntarily recognized HERE as the exclusive collective bargaining representative of its employees on the basis of a card check. At that time, there were approximately 2,900 employees. This number increased to approximately 3,100 employees by October 1997.

The hotel's recognition of the union was not well received by the employees. Many believed that their co-employees had been coerced into signing the cards, including threats of being fired or deported. One employee was reportedly even told that if management learned she was gay, she would be fired by the company if she didn't sign a card so that the union could protect her.²³ Events soon made it clear that a majority of the employees did not support the union. Petitions for an election—signed by over 60 percent of the employees—were filed by the employees with the NLRB regional office on April 17, 1997, September 16, 1997, and November 6, 1997. These were dismissed on the basis that a "reasonable time to bargain" had not elapsed.

Finally, on November 8, 1997, two days after the employees filed the third petition, the company announced to its employees that it had reached a tentative collective-bargaining agreement with HERE and on November 13, 1997, two days before the one-year anniversary of the company's recognition of HERE, the union held a ratification vote at its headquarters. Although the voting was open to all employees, fewer than one-third of the bargaining unit employees participated in the ratification vote, and the collective bargaining agreement was approved by a vote of 740 to 103.

Eventually, a divided National Labor Relations Board upheld the decisions by the regional office to deny the employees a secret ballot election.²⁴ Under the law, the employees could not appeal the Board's decision, because federal courts are barred from considering appeals from employees in cases involving NLRB election processes.

Furthermore, once the hotel and the union signed a collective bargaining agreement, the employees were barred by the so-called contract bar doctrine from seeking an election for the life of the contract.

Why Organized Labor Prefers Card Checks

Organized labor has made no secret about its pursuit of card check organizing. Recently, in his maiden speech as the new President of the UAW, Ron Gettelfinger reportedly pledged that the union “would use its leverage whenever possible to pressure employers to remain neutral during union recruiting drives and [agree to] so-called ‘card checks’”²⁵ Meanwhile, HERE claims that 80 percent of the 9,000 workers the union organized last year never cast a ballot.²⁶

A 1999 study undertaken for the AFL-CIO’s George Meany Center for Labor Studies, entitled “Organizing Experiences Under Union-Management Neutrality and Card Check Agreements,” shows why card checks are so important to organized labor. Using a traditional NLRB secret ballot election, unions only win about half the time (53.6 percent in 2001). The study, which examined union organizing experiences under 114 card check/neutrality agreements, found that unions scored victories in 78 percent of the campaigns where card checks were used and 86 percent where this was coupled with employer neutrality.

Secret Ballot Surest Means for Ensuring Employee Choice

The decision by a unit of employees regarding representation by a union is a decision that should be made by a majority of those individual employees after hearing views on as many sides of the issue as possible. The American industrial relations system is founded on this principle. While not without flaws, the best way for resolving the question of representation continues to be by employees expressing their opinion in a secret ballot election conducted by the National Labor Relations Board. The secret ballot election process, which in the vast majority of situations occurs within 60 days after it commences, guarantees confidentiality and protection against coercion, threats, peer pressure, and improper solicitations and inducements by either the employer or the union.

Unfortunately, this system is being threatened by an alternative procedure, known as card check recognition, which lacks these same protections. On the critical issue of union representation, employers should not be allowed to substitute their own judgment for that of their employees. There is simply no acceptable alternative to a secret ballot election for assessing those employees’ views. If the employer and the union ignore those procedures, union representation becomes nothing more than a deal between the employer and the union that the latter will represent the former’s employees. Ideally, the law should prohibit such agreements, and we would encourage this committee to consider legislation, such as H.R. 4636, to provide this prohibition.

Thank you for giving me the opportunity to express our organization’s position on these issues and I will be happy to answer any questions.

Endnotes

¹ For a more thorough discussion of card check organizing and its implications, see DANIEL V. YAGER, TIMOTHY J. BARTL, JOSEPH L. LOBUE, *EMPLOYEE FREE CHOICE: IT'S NOT IN THE CARDS* (1998).

² 321 N.L.R.B. 1320 (1996)

³ *NLRB v. Logan Packing Co.*, 386 F.2d 562, 566 (4th Cir. 1967), cited in *NLRB v. Gissel*, 395 U.S. 575, 602 n.20 (1969).

⁴ *Linden Lumber v. NLRB*, 419 U.S. 301, 307 (1974).

⁵ Joint brief of the AFL-CIO *et al.* in *Chelsea Industries & Levitz Furniture Co. of the Pacific, Inc.*, Nos. 7-CA-36846, *et al.* at 13 (May 18, 1998), quoting *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 602 (1969) and *Brooks v. NLRB*, 348 U.S. 96, 99, 100 (1954).

⁶ Mark Stevenson, *Fox Faces Test on Labor Policy*, AP ONLINE, March 2, 2001.

⁷ Letter from Rep. George Miller *et al.* to Junta Local de Conciliacion y Arbitraje del Estado de Puebla, Aug. 29, 2001.

⁸ Eric Walter, *Frontier, Union Face Off*, HENRIETTA POST, Jul. 19, 2002.

⁹ *Id.*

¹⁰ For a comprehensive study of corporate campaigns, see JAROL B. MANHEIM, *THE DEATH OF A THOUSAND CUTS* (2001).

¹¹ See, e.g., *Diamond Walnut Growers v. NLRB*, 113 F.2d 1259 (D.C. Cir. 1997), *cert. denied*, 118 S. Ct. 1299 1998) (generally discussing union corporate campaign tactics); *Food Lion v. United Food & Commercial Workers Int'l Union*, 103 F.3d 1007, 1014 n.9 (D.C. Cir. 1997) (defining the term "corporate campaign"). See also INDUSTRIAL UNION DEPARTMENT, AFL-CIO, *DEVELOPING NEW TACTICS: WINNING WITH COORDINATED CORPORATE CAMPAIGNS* (1985); DAN LA BOLTZ, *A TROUBLEMAKERS HANDBOOK* (1991); SERVICE EMPLOYEES INTERNATIONAL UNION, *CONTRACT CAMPAIGN MANUAL* (1988); Herbert R. Northrup, *Union Corporate Campaigns and Inside Games as a Strike Form*, 19 EMPL. REL. L.J. 507 (1994); Herbert R. Northrup, *Corporate Campaigns: The Perversion of the Regulatory Process*, 17 J. LAB. RES. 345 (1996).

¹² *Food Lion*, 103 F.3d at 1014 n.9.

¹³ Industrial Union Department, AFL-CIO, *supra* note 11, at 1.

¹⁴ *Union Officials Stress International Scope of Organizing, Bargaining Campaigns*, DAILY LAB. REP. (BNA), A-5 (Nov. 16, 1992).

¹⁵ La Botz, *supra* note 11, at 127 (emphasis in original).

¹⁶ Joe Crump, *The Pressure is On: Organizing Without the NLRB*, 18 LAB. REL. REV. 33, 35-36 (1991) (emphasis added).

¹⁷ See Crump, *supra*, note 16.

¹⁸ *Id.* at 35.

¹⁹ *Levi Strauss Agrees to Recognize UNITE As Agent for 550 Roswell, N.M., Employees*, DAILY LAB. REP. (BNA), A-2 (Mar. 11, 1997); *Levi Plant Zipped Up*, WORK IN PROGRESS [AFL-CIO weekly online newsletter] (Jan. 28, 1997).

²⁰ Letter from Cornele A. Overstreet, Regional Director, NLRB Region 28 to David Locke, Levi Employee (May 29, 1997).

²¹ Letter from Yvonne T. Dixon, Director, NLRB Office of Appeals, to David Locke, Levi's Employee (Mar. 9, 1998).

²² Michelle Amber, *First Pact Between HERE, MGM Grand Calls for On-site Child Care Facility*, DAILY LAB. REP. (BNA), No. 225, A-1 (Nov. 21, 1997); Aaron Bernstein, *Sweeney's Blitz*, BUS. WEEK, Feb. 17, 1997, at 56; Steven Greenhouse, *Unions, Bruised in Direct Battles With Companies, Try a Roundabout Tactic*, N.Y. TIMES, Mar. 10, 1997, at B-7.

²³ Lisa Kim Bach, *MGM Workers Seek to Oust Culinary*, LAS VEGAS REV. J., Apr. 23, 1997, at D-1.

²⁴ *MGM Grand Hotel, Inc.*, 329 NLRB No. 50 (Sept. 30, 1999).

²⁵ *Auto Union Chief Vows to Bolster Ranks*, REUTERS, June 8, 2002.

²⁶ David Wessel, *Aggressive Tactics by Unions Target Lower-Paid Workers*, WALL STREET J., Jan. 31, 2002, at A-1.

Appendix

NLRB Cases Involving Union Deception and/or Coercion in Obtaining Authorization Card Signatures

Case Name	Issues Involved
<i>American Beauty Baking Co.</i> , 198 N.L.R.B. 327 (1972)	pressure
<i>American Can Co.</i> , 157 N.L.R.B. 167 (1966)	forgery
<i>American Metal Climax, Inc. v. NLRB</i> , 413 F.2d 191 (6th Cir. 1969)	misrepresentation
<i>Area Disposal, Inc.</i> , 200 N.L.R.B. 354 (1972)	misleading statements
<i>Bauer Welding & Metal Fabricators, Inc. v. NLRB</i> , 358 F.2d 766 (8th Cir. 1966)	misrepresentation
<i>Ben Duthler, Inc. v. NLRB</i> , 395 F.2d 28 (6th Cir. 1968)	pressure, misleading statements
<i>Bookland, Inc.</i> , 221 N.L.R.B. 35 (1975)	misrepresentation
<i>Boyer Bros., Inc.</i> , 181 N.L.R.B. 401 (1970)	peer pressure
<i>Briggs IGA Foodliner</i> , 146 N.L.R.B. 443 (1964)	coercion, misrepresentation
<i>Burlington Indus., Inc. v. NLRB</i> , 680 F.2d 974 (4th Cir. 1982)	misrepresentation
<i>Calplant Constr.</i> , 279 N.L.R.B. 854 (1986)	promised benefits
<i>Camvac Int'l, Inc.</i> , 288 N.L.R.B. 816 (1988)	misleading statements
<i>Case, Inc.</i> , 237 N.L.R.B. 798 (1978)	misrepresentation
<i>City Welding & Mfg. Co.</i> , 191 N.L.R.B. 124 (1971)	pressure
<i>Claremont Polychem. Corp.</i> , 196 N.L.R.B. 613 (1972)	promised benefits
<i>Columbia Broad. Sys., Inc.</i> , 125 N.L.R.B. 1161 (1959)	forgery, fraud
<i>Cooper-Hewitt Elec. Co.</i> , 162 N.L.R.B. 1148 (1967)	pressure
<i>D.H. Overmyer Co.</i> , 170 N.L.R.B. 658 (1968)	promised benefits
<i>Dan Howard Mfg. Co. v. NLRB</i> , 390 F.2d 304 (7th Cir. 1969)	misrepresentation, peer pressure
<i>Dayco Corp. v. NLRB</i> , 382 F.2d 577 (6th Cir. 1967)	misrepresentation
<i>Dayton Hudson Dep't Store Co.</i> , 314 N.L.R.B. 795 (1994)	forgery
<i>Dexter IGA Foodliner</i> , 209 N.L.R.B. 369 (1974)	pressure
<i>Dresser Indus., Inc.</i> , 248 N.L.R.B. 33 (1980)	misrepresentation, misleading statements
<i>DTR Indus., Inc.</i> , 311 N.L.R.B. 833 (1993)	misleading statements
<i>Eagle-Picher Indus., Inc.</i> , 171 N.L.R.B. 293 (1968)	misrepresentation
<i>Eckerd's Mkt., Inc.</i> , 183 N.L.R.B. 337 (1970)	misrepresentation
<i>Ed's Foodland of Springfield, Inc.</i> , 159 N.L.R.B. 1256 (1966)	misleading statements
<i>Eng's & Fabricators, Inc. v. NLRB</i> , 376 F.2d 482 (5th Cir. 1967)	misrepresentation
<i>Englewood Lumber Co.</i> , 130 N.L.R.B. 394 (1961)	misrepresentation
<i>Evergreen Healthcare, Inc. v. NLRB</i> , 104 F.3d 867 (6th Cir. 1997)	pressure
<i>Findlay Indus., Inc.</i> , 323 N.L.R.B. No. 139 (May 22, 1997)	forgery
<i>Fort Smith Outerwear, Inc. v. NLRB</i> , 499 F.2d 223 (8th Cir. 1974)	misrepresentation, promised benefits
<i>Freeport Marble & Tile Co. v. NLRB</i> , 367 F.2d 371 (1st Cir. 1966)	misrepresentation

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Case Name	Issues Involved
<i>G & A Truck Line, Inc. v. NLRB</i> , 407 F.3d 120 (6th Cir. 1969)	misleading statements
<i>Gaylord Bag Co.</i> , 313 N.L.R.B. 306 (1993)	promised benefits
<i>General Steel Prods. Inc.</i> , 157 N.L.R.B. 636 (1966)	misleading statements
<i>Golub Corp.</i> , 159 N.L.R.B. 503 (1966)	misrepresentation
<i>HCF, Inc.</i> , 321 N.L.R.B. 1320 (1996)	coercion
<i>Heck's Inc. v. NLRB</i> , 386 F.2d 317 (4th Cir. 1967)	pressure
<i>Hedstrom Co.</i> , 223 N.L.R.B. 1409 (1976)	misleading statements
<i>Hicks Oils & Hicksgas</i> , 293 N.L.R.B. 84 (1989), enf'd, 942 F.2d 1140 (7th Cir. 1991)	misleading statements
<i>Holiday Inn of Perrysburg</i> , 243 N.L.R.B. 280 (1979)	misleading statements
<i>I. Posner, Inc.</i> , 133 N.L.R.B. 1573 (1961)	coercion
<i>Imco Container Corp.</i> , 148 N.L.R.B. 312 (1964)	forgery
<i>Insuler Chem. Corp.</i> , 128 N.L.R.B. 93 (1960)	pressure
<i>ITT Semi-Conductors Inc.</i> , 165 N.L.R.B. 716 (1967)	misrepresentation, misleading statements
<i>J.M. Machinery Corp. v. NLRB</i> , 70 L.R.R.M. 3355 (5th Cir. 1969)	misrepresentation
<i>J.P. Stevens & Co.</i> , 244 N.L.R.B. 407 (1979)	misrepresentation, pressure, misleading statements
<i>John Kinkel & Son</i> , 157 N.L.R.B. 744 (1966)	pressure, misleading statements
<i>L'Eggs Prods., Inc.</i> , 236 N.L.R.B. 354 (1978)	misrepresentation
<i>Lake Butler Apparel Co. v. NLRB</i> , 392 F.2d 76 (5th Cir. 1968)	misrepresentation
<i>Lenz Co. v. NLRB</i> , 396 F.2d 905 (6th Cir. 1968)	misrepresentation
<i>Lerner Shops of Ala., Inc.</i> , 91 N.L.R.B. 151 (1950)	coercion
<i>Levi Strauss & Co.</i> , 172 N.L.R.B. 732 (1968)	misleading statements
<i>Medline Indus., Inc. v. NLRB</i> , 593 F.2d 788 (7th Cir. 1979)	pressure, misrepresentation
<i>Merrill Axle & Wheel Serv.</i> , 158 N.L.R.B. 1113 (1966)	peer pressure
<i>Mid-East Consol. Warehouse, A Div. of Ethan Allen, Inc.</i> , 247 N.L.R.B. 552 (1980)	peer pressure
<i>Montgomery Ward & Co.</i> , 253 N.L.R.B. 196 (1980)	misleading statements
<i>Montgomery Ward & Co.</i> , 288 N.L.R.B. 126 (1988)	misleading statements
<i>Morris & Assoc., Inc.</i> , 138 N.L.R.B. 1160 (1962)	misrepresentation
<i>Mutual Indus., Inc.</i> , 159 N.L.R.B. 885 (1966)	misleading statements
<i>Nashville Lumber Co.</i> , 162 N.L.R.B. 1027 (1967)	coercion, misrepresentation
<i>Nichols-Dover, Inc. v. NLRB</i> , 380 F.2d 438 (2d Cir. 1967)	misrepresentation
<i>Nissan Research & Dev., Inc.</i> , 296 N.L.R.B. 598 (1989)	misrepresentation
<i>NLRB v. Cumberland Shoe Corp.</i> , 351 F.2d 917 (6th Cir. 1965)	misleading statements
<i>NLRB v. Gorbea, Perez & Morrell</i> , 328 F.2d 679 (1st Cir. 1964)	promised benefits

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<i>NLRB v. Horizon Air Servs., Inc.</i> , 761 F.2d 22 (1st Cir. 1985)	misleading statements
<i>NLRB v. James Thompson & Co.</i> , 208 F.2d 743 (2d Cir. 1953)	coercion
<i>NLRB v. Koehler</i> , 328 F.2d 770 (7th Cir. 1964)	misrepresentation
<i>NLRB v. Rohstein & Co.</i> , 266 F.2d 407 (1st Cir. 1959)	pressure, misrepresentation
<i>NLRB v. Roney Plaza Apartments</i> , 597 F.2d 1046 (1979)	peer pressure, misrepresentation
<i>NLRB v. Sanford Home for Adults</i> , 669 F.2d 35 (2d Cir. 1981)	coercion
<i>NLRB v. Savair Mfg. Co.</i> , 414 U.S. 270 (1973)	promised benefits
<i>NLRB v. The Catalyst</i> , 99 L.R.R.M. 3022 (9th Cir. 1978)	misleading statements
<i>Olin Conductors, Olin Mathieson Chem. Corp.</i> , 185 N.L.R.B. 467 (1970)	promised benefits
<i>Olympic Villas</i> , 241 N.L.R.B. 358 (1979)	forgery, pressure
<i>Ottenheimer & Co.</i> , 144 N.L.R.B. 38 (1963)	promised benefits
<i>Paul Distributing Co.</i> , 264 N.L.R.B. 1378 (1982)	promised benefits
<i>Pembroke Management Inc.</i> , 296 N.L.R.B. 1226 (1989)	misleading statements
<i>Peoples Serv. Drug Stores, Inc.</i> , 154 N.L.R.B. 1516 (1965)	peer pressure, promised benefits, misrepresentation
<i>Pizza Prods. Corp.</i> , 153 N.L.R.B. 1265 (1965)	peer pressure, misrepresentation
<i>Polyclinic Medical Ctr. of Harrisburg</i> , 315 N.L.R.B. 1257 (1995)	misrepresentation
<i>Potomac Elec. Power Co.</i> , 111 N.L.R.B. 553 (1955)	promised benefits
<i>Puerto Rico Food Prods. Corp.</i> , 111 N.L.R.B. 293 (1955)	coercion
<i>Pulley v. NLRB</i> , 395 F.2d 870 (6th Cir. 1968)	coercion
<i>Republic Corp., Advanced Mining Group</i> , 260 N.L.R.B. 486 (1982)	misleading statements
<i>Rowand Co., Inc.</i> , 210 N.L.R.B. 95 (1974)	coercion
<i>Salvation Army Williams Memorial Residence</i> , 293 N.L.R.B. 944 (1989)	misrepresentation
<i>Sandy's Stores, Inc.</i> , 163 N.L.R.B. 728 (1967)	misrepresentation
<i>Schwarzenbach-Huber Co. v. NLRB</i> , 408 F.3d 236 (2d Cir. 1969)	misrepresentation
<i>Scotts IGA Foodliner</i> , 223 N.L.R.B. 394 (1976)	promised benefits
<i>Sea Life, Inc.</i> , 175 N.L.R.B. 982 (1969)	promised benefits
<i>Serv-U-Stores, Inc.</i> , 234 N.L.R.B. 1143 (1978)	misrepresentation
<i>Shapiro Packing Co.</i> , 155 N.L.R.B. 777 (1965)	peer pressure, coercion
<i>Silver Fleet, Inc.</i> , 174 N.L.R.B. 873 (1969)	misrepresentation
<i>Somerset Welding & Steel Inc.</i> , 304 N.L.R.B. 32 (1991)	misleading statements
<i>Southbridge Sheet Metal Works, Inc. v. NLRB</i> , 380 F.2d 851 (1967)	pressure
<i>Southern Cal. Associated Newspapers, Inc. v. NLRB</i> , 415 F.2d 360 (9th Cir. 1969)	misrepresentation
<i>Southland Paint Co. v. NLRB</i> , 394 F.2d 717 (5th Cir. 1968)	misrepresentation

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Stanley M. Feil, Inc., 250 N.L.R.B. 1154 (1980)

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Swan Super Cleaners, Inc. v. NLRB, 384 F.2d 609 (6th Cir. 1967)

Taylor's IGA Foodliner v. NLRB, 407 F.3d 644 (7th Cir. 1969)

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Tipton Elec. Co. v. NLRB, 621 F.2d 890 (8th Cir. 1980)

Top Mode Mfg. Co., 97 N.L.R.B. 1273 (1952)

Trend Mills, Inc., 154 N.L.R.B. 145 (1965)

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Wylie Mfg. Co., 170 N.L.R.B. 122 (1968)

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Issues Involved

misrepresentation

misrepresentation, promised benefits

forgery, misrepresentation

misrepresentation

misrepresentation

promised benefits, misleading statements

misleading statements

coercion

misrepresentation

misrepresentation, pressure

misleading statements

misleading statements

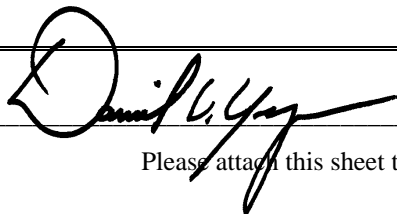
coercion

coercion

Committee on Education and the Workforce
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)

Your Name: Daniel V. Yager		
1. Will you be representing a federal, State, or local government entity? (If the answer is yes please contact the Committee).	<u>Yes</u>	<u>No</u>
2. Please list any federal grants or contracts (including subgrants or subcontracts) which <u>you have received</u> since October 1, 1998: None		
3. Will you be representing an entity other than a government entity?	<u>Yes</u>	No
4. Other than yourself, please list what entity or entities you will be representing: LPA, the Labor Policy Association		
5. Please list any offices or elected positions held and/or briefly describe your representational capacity with each of the entities you listed in response to question 4: Senior Vice President and General Counsel		
6. Please list any federal grants or contracts (including subgrants or subcontracts) received by the entities you listed in response to question 4 since October 1, 1998, including the source and amount of each grant or contract: None		
7. Are there parent organizations, subsidiaries, or partnerships to the entities you disclosed in response to question number 4 that you will not be representing? If so, please list:	Yes	<u>No</u>

Signature: _____



Date: July 23, 2002

Please attach this sheet to your written testimony.